

DRAFT

CITY OF GAITHERSBURG
31 South Summit Avenue
Gaithersburg, Maryland 20877

MINUTES OF A MEETING OF THE BOARD OF APPEALS THURSDAY, SEPTEMBER 8, 2005

Chairperson Harvey Kaye called the meeting to order at 7:30 p.m. Members present: Richard Knoebel, Vice Chairperson and Board Members Gary Trojak, Victor Macdonald, and Carol Rieg, Alternate. Absent: Patrick Burke. Staff present: Caroline Seiden, Planner and Karen Jordan, Recording Secretary.

I. APPROVAL OF MINUTES

Motion was made by Board Member Knoebel seconded by Board Member Macdonald, that the minutes of the August 11, 2005, Board of Appeals meeting be approved, as submitted.

VOTE: 4-0-1 (Abstained: Trojak)

II. PUBLIC HEARING

A-521 Mike Budde for Omnipoint Communications CAP Operations LLC

The petition requests a special exception to permit a telecommunications facility on the rooftop of the Marriott Hotel, 9751 Washingtonian Boulevard, Parcel "A", Washingtonian Center, Gaithersburg, Maryland. The property is located in the MXD (Mixed Use Development) Zone. The special exception is allowed by Section 24-160D.3(d) of the City of Gaithersburg Zoning Ordinance in compliance with Section 24-167A(D)(2).

Planner Caroline Seiden stated that the public hearing was advertised in the *Gaithersburg Gazette* on August 24, 2005, and 21 exhibits were in the record file. Exhibit 21 is the recommendation of approval by the Planning Commission made at their regular meeting of September 7, 2005.

Chairperson Kaye swore in Mr. Mike Budde, applicant, who would be testifying to the application.

Mr. Mike Budde for Omnipoint said that the application was for a modification of an existing telecommunication facility. Omnipoint currently has six antennas in three separate sectors on the rooftop of the Marriott Hotel which had been originally approved in 1994 by the City of Gaithersburg. The request is replace and relocate the antennas. The two antennas in Sector "A" would be replaced and raised by eight feet. The antennas in Sector "B" are proposed to be replaced on poles fifteen feet above the penthouse roof and two additional antennas in Sector

"C" are proposed to be replaced and relocated to the penthouse wall. In addition, the existing cabinet would be removed and two new equipment cabinets installed in the same location as the existing cabinet. The petition is also a blanket request to add three additional antennas, one into each of the three existing sectors; at a later time if the need should arise. A third equipment cabinet is also to be included in the request. The replacement cabinets are similar in shape and size to the existing cabinet and will only emit a very limited amount of noise. Mr. Budde further explained that the configuration and relocation of antennas is not to increase the overall coverage but rather to increase the capacity while eliminating call drop-offs.

Chairperson Kaye swore in Mr. Nadir Khan, Radio Frequency Engineer for T-Mobile, who would be testifying to the application. *Mr. Nadir Khan* responded to an inquiry that the new configuration would alleviate the frequency of dropped calls in the immediate area.

Responding to Chairperson Kaye's concerns regarding appearance, Mr. Budde explained that the two antennas in Sector "C" that are to be lowered and placed on the outside wall of the penthouse, should not detract from the building as they will be painted to match the existing color. The two antennas located in Sector "A" will be relocated to a new pole mount and raised approximately eight feet in height. Regarding construction time he expects that once the building permit has been issued the work should be completed within a few months.

Chairperson Kaye questioned the time limit concerning an approval for a blanket request for the three additional antennas. Planner Seiden advised that the applicant could request, in writing, a time limit extension on an annual basis.

There was no other testimony presented in favor of or in opposition to the application.

Motion was made by Board Member Knoebel, seconded by Board Member Trojak, to close the record on A-521.

VOTE: 5-0

Motion was made by Board Member Macdonald, seconded by Board Member Knoebel, to approve Special Exception A-521 with the following conditions:

- 1) At such time as Omnipoint CAP Operations LLC ceases to use this facility, the antennae, cabinets and associated equipment shall be removed by the petitioner at the petitioner's expense.
- 2) Antennae mounted to the penthouse wall shall be colored to match the existing wall.
- 3) Installation of antennas and associated equipment must be completed by September 8, 2006.
- 4) If the installation is not complete by September 8, 2006, the petitioner must request a time extension, in writing, prior to September 8, 2006 and each subsequent year thereafter until such time as the installation is complete.

VOTE: 5-0

III. DISCUSSION

The Board discussed the recent practice of requiring actual coverage maps as a condition of special exception approval for telecommunications applicants. Chairperson Kaye questioned whether the Board of Appeals has authority to require companies to provide a coverage map after the site has been completed. Member Knoebel said that the purpose is to establish what the actual coverage is as compared to what was proposed and if there is a substantial disparity, he feels the Board should determine if the approval was needed. Chairperson Kaye suggested that staff obtain an opinion from the City Attorney regarding the Board's authority to require actual coverage maps and what action the Board is legally able to take based on the information obtained from these maps.

IV. ADJOURNMENT

There being no more business to come before this meeting of the Board of Appeals, the meeting was adjourned at 8:40 p.m.

Respectfully submitted,

Karen J. Jordan
Recording Secretary